



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 22, 2023** which reads as follows:*

“**G.R. No. 255051 (People of the Philippines v. XXX¹)**. — This appeal² seeks to reverse and set aside the Decision³ dated 17 June 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10550. The CA affirmed with modification the Decision⁴ dated 20 July 2017 of Branch 61, Regional Trial Court (RTC) of Gumaca, Quezon in Criminal Case No. 11554-G.

Antecedents

Accused-appellant XXX (accused-appellant) was indicted for the crime of Rape under Article 266-A of the Revised Penal Code, as amended by Republic Act (R.A.) No. 8353,⁵ otherwise known as “The Anti-Rape Law of 1997,” in an Information dated 20 December 2010, the accusatory portion of which reads:

That on or about the 18th day of December 2010, at [REDACTED], Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force, did then and there willfully, unlawfully and feloniously lay with and have carnal knowledge of [AAA], a blind and unable to take care of herself or protect herself because of physical or mental disability or condition, against the will and consent of said AAA, to her damage and prejudice.

¹ Pursuant to Supreme Court Administrative Circular No. 83-15 dated 05 September 2017 which requires the preparation of a first copy of Decisions/Resolutions/Orders where the real of genuine name/s or identities and personal circumstances are used.

² *Rollo*, pp. 25-26. See Notice of Appeal dated 10 July 2019.

³ *Id.* at 4-24. Penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ramon R. Garcia and Gabriel T. Robeniol.

⁴ *Records*, pp. 244-256. Penned by Presiding Judge Maria Chona E. Pulgar-Navarro.

⁵ Entitled “AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES.” Approved 30 September 1997.

CONTRARY TO LAW.⁶

Upon arraignment, accused-appellant pleaded not guilty to the charge.⁷ After pre-trial, trial on the merits ensued.⁸

Version of the Prosecution

AAA was 30 years old at the time of the alleged incident.⁹ She was blind, could barely speak, hear, and move on her own.¹⁰ She was physically and mentally disabled, considered a special child, being afflicted with Down Syndrome.¹¹ She lived with her sister, BBB, who took care of her after their mother died.¹² AAA died on 10 March 2011 before she could be presented in court.¹³

Meanwhile, accused-appellant was the live-in partner of BBB for five years at the time of the alleged incident.¹⁴

In the evening of 18 December 2010, BBB and accused-appellant were watching the television at the house of their neighbor, Amelia Mernilo (*Kagawad* Mernilo). Accused-appellant was drunk as he had been drinking since afternoon.¹⁵ At around 8:30 p.m., accused-appellant decided to go home. BBB stayed behind. Since their house was located just across the road, BBB saw accused-appellant sleeping at the balcony of their house at around 8:57 p.m. At 9:00 p.m., BBB also went home.¹⁶

When BBB arrived home, she proceeded to the room of AAA where she saw the latter crying. AAA told her, “*mama mama, aw aw,*” while pointing to her vagina.¹⁷ When she spread AAA’s legs, BBB saw AAA was just wearing half of her underwear.¹⁸ BBB then brought AAA to a lighted place, where she saw fresh blood and whitish fluid, which she described as like “*sipon sipon,*” in AAA’s genitalia.¹⁹ Thereafter, she went to accused-appellant, who was sleeping soundly in their balcony, and unzipped the zipper of his pants.²⁰ She grasped accused-appellant’s penis and saw a smear of

⁶ Id. at 2.

⁷ Id. at 26.

⁸ *Rollo*, p. 5.

⁹ TSN, 12 March 2012, p. 4.

¹⁰ TSN, 12 March 2012, pp. 4-5.

¹¹ TSN, 06 February 2012, p. 3; TSN, 12 March 2012, pp. 4-5; TSN, 18 June 2012, p. 3; TSN, 12 July 2012, pp. 4-5; TSN, 08 May 2013, pp. 3-4.

¹² TSN, 06 February 2012, p. 3.

¹³ TSN, 12 July 2012, p. 4; TSN, 06 February 2012, p. 3; TSN, 08 May 2013, p. 4.

¹⁴ TSN, 12 March 2012, p. 17.

¹⁵ TSN, 06 February 2012, pp. 4-5.

¹⁶ TSN, 12 March 2012, pp. 9-10.

¹⁷ Id. at 5.

¹⁸ Id. at 11.

¹⁹ Id. at 11-12.

²⁰ Id. at 12; TSN, 06 February 2012, p. 6.

blood and whitish liquid.²¹

BBB then immediately went to *Kagawad* Mernilo to report what happened and ask what she should do. *Kagawad* Mernilo then accompanied BBB to the police station to report the incident. Thereafter, accused-appellant was arrested in their house.²²

Dr. Ramon P. Baldovino conducted genital examination of AAA. He found that her hymen had a fresh laceration at 5:00 o'clock position, and in the anogenitalia, the laceration was located at 5:00 o'clock position.²³ During his testimony, he confirmed that the anogenital findings were "diagnostic of blunt force penetrating trauma."²⁴ He likewise observed that AAA was mentally deficient.²⁵

Version of the Defense

The defense presented the lone testimony of accused-appellant.

Accused-appellant denied raping AAA. He recalled that on 18 December 2010, at 8:00 p.m., he was resting at the balcony of BBB's house. CCC, the brother of BBB, arrived and invited him to fish, but it did not push through due to bad weather. Thus, he and two other cousins of BBB just stayed in front of the house. He then went home at around 9:45 p.m. and slept at the balcony. Meanwhile, BBB was at their neighbor's house across the road.²⁶

Thereafter, he was awakened by the police officers who arrested him and detained him at the municipal hall. He was surprised to learn that he was accused of raping AAA.²⁷ He confronted BBB, who told him that she is having him jailed because he insisted on leaving town.²⁸ He claimed that prior to his arrest, BBB made similar threats to have him jailed if he insisted on leaving to work in Alabang.²⁹

Accused-appellant admitted that AAA was the sister of BBB, his live-in partner for four years, and that AAA was a special child.³⁰ He also admitted that he had drunk alcohol prior to his arrest.³¹

²¹ Id. at 7-8.

²² TSN, 06 February 2012, p. 6.

²³ TSN, 13 August 2013, p. 4.

²⁴ Id. at 5.

²⁵ TSN, 13 August 2013, p. 4.

²⁶ TSN, 01 March 2016, pp. 3-5.

²⁷ Id. at 6.

²⁸ TSN, 13 June 2016, p. 3.

²⁹ Id. at 4-5.

³⁰ Id. at 6; TSN, 01 March 2016, pp. 6-7.

³¹ Id. at 6.

Ruling of the RTC

On 11 October 2017, the RTC promulgated its Decision dated 20 July 2017, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered convicting the accused [XXX] of the crime of Rape and he is hereby sentenced to suffer the penalty of *RECLUSION PERPETUA*.

Accused is further directed to pay the heirs of [AAA] the amount of Fifty Thousand Pesos (Php50,000.00) as civil indemnity, another Fifty Thousand Pesos (Php50,000.00) for moral damages and Twenty Five Thousand Pesos (Php25,000.00) as exemplary damages.

SO ORDERED.³²

The RTC ruled that the prosecution succeeded in proving the guilt of the accused beyond reasonable doubt. It found the circumstantial evidence presented by the prosecution sufficient to establish that accused-appellant raped AAA. Moreover, the prosecution did not need to prove the presence of force and intimidation as AAA's physical and mental disability at the time of the commission of the crime was sufficient for conviction of rape.³³

Aggrieved, accused-appellant appealed to the CA.³⁴

Ruling of the CA

In its Decision, the CA affirmed with modification the RTC's decision, to wit:

WHEREFORE, in view of the foregoing premises, the **APPEAL** is **DENIED**. Hence, the assailed July 20, 2017 Decision of the Regional Trial Court, Branch 61, Gumaca Quezon in Criminal Case No. 11554-G is hereby **AFFIRMED with MODIFICATION**.

Accordingly, accused-appellant [XXX] is hereby adjudged **GUILTY** beyond reasonable doubt for rape under Article 266-A of the Revised Penal Code, as amended, and is hereby sentenced to suffer the penalty of *reclusion perpetua*.

On the other hand, the amount of damages awarded is hereby increased, ordering accused-appellant to pay the heirs of AAA the amount of Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as moral damages, and Seventy-Five Thousand Pesos (P75,000.00) as exemplary damages. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the

³² Records, p. 256.

³³ CA *rollo*, pp. 52-59.

³⁴ *Rollo*, p. 4.

date of finality of this Decision until fully paid.

SO ORDERED.³⁵

The CA affirmed the RTC's findings.³⁶ Nonetheless, the CA modified the amount of damages awarded by the RTC, pursuant to *People v. Jugueta*.³⁷

Hence, this appeal.³⁸

Issue

The issue in this case is whether or not the accused-appellant's guilt was proven beyond reasonable doubt.

Accused-appellant asserts that the circumstantial evidence in this case are insufficient to establish his guilt beyond reasonable doubt. He contends that BBB's testimony was grossly inconsistent, which casts doubt on her credibility.³⁹

Ruling of the Court

The appeal is dismissed.

Art. 266-A and 266-B of the Revised Penal Code, as amended, penalize the crime of Rape, thus:

“Article 266-A. Rape: *When And How Committed*. – Rape is committed:

“1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

“a) Through force, threat, or intimidation;

“b) When the offended party is deprived of reason or otherwise unconscious;

“c) By means of fraudulent machination or grave abuse of authority;
and

“d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

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³⁵ Id. at 23-24.

³⁶ Id. at 8-23.

³⁷ 783 Phil. 806 (2016)

³⁸ *Rollo*, pp. 25-26.

³⁹ *CA rollo*, p. 31.

“Article 266-B. *Penalty*. – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.”

In order to sustain a conviction for Rape under Art. 266-A, paragraph (1), the prosecution must prove the following elements: (1) the accused had carnal knowledge of the victim; and (2) the said act was accomplished (a) through the use of force or intimidation, (b) when the victim is deprived of reason or otherwise unconscious, (c) by means of fraudulent machination or grave abuse of authority, or (d) when the victim is under 12 years of age or is demented.⁴⁰

It is settled that direct evidence is not required, and it is not the only means, to establish the guilt of an accused beyond reasonable doubt.⁴¹ The commission of a crime, the identity of the perpetrator, and the finding of guilt may be established by circumstantial evidence.⁴² In Rape cases, “[c]arnal knowledge of the victim by the accused may be proved either by direct evidence or by circumstantial evidence that rape has been committed and that the accused was the perpetrator thereof.”⁴³

Rule 133, Section 4 of the Revised Rules on Evidence provides that circumstantial evidence is sufficient for conviction if: (1) there is more than one (1) circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

For circumstantial evidence to be sufficient to support a conviction, the circumstances proven must “constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of all others, as the guilty person.”⁴⁴

In this case, the victim, AAA, was blind, could hardly hear, speak, or move on her own, and afflicted with Down Syndrome. At the time of the commission of the crime, AAA was already bedridden.⁴⁵ She died a few months after the incident and before she could be presented in court.⁴⁶ In the absence of direct evidence through AAA’s testimony, the prosecution proved its case through circumstantial evidence.

The RTC and the CA correctly considered the following circumstances in convicting appellant-accused: (1) accused-appellant was the only person in the house when the incident happened; (2) accused-appellant had access to the room where AAA was sleeping; (3) the blood and whitish liquid like “*sipon*

⁴⁰ *People v. Pedido*, G.R. No. 238451, 18 November 2020.

⁴¹ See *Id.*; See also *Chua v. People*, 818 Phil. 1, 17 (2017).

⁴² *Bacerra v. People*, 812 Phil. 25, 36 (2017), citing *People v. Villaflores*, 685 Phil. 595, 615-617 (2012).

⁴³ *People v. Briosio*, 600 Phil. 530, 539 (2009), citing *People v. Sumarago*, 466 Phil. 956, 966 (2004).

⁴⁴ *Bartolome v. People*, G.R. No. 227951, 28 June 2021.

⁴⁵ *Rollo*, p. 50.

⁴⁶ *Id.*

sipon” found by BBB in the vagina of AAA, and the smear of blood and whitish liquid found by BBB when she squeezed accused-appellant’s penis; and (4) the act of sexual congress as established by the medico-legal findings that AAA’s hymen had fresh lacerations.⁴⁷ These circumstantial evidence clearly constitute an unbroken chain which leads to the fair and reasonable conclusion that accused-appellant, and no other, was guilty of raping AAA.

Accused-appellant asserts that BBB’s testimony was incredible, and her flipping testimony engenders serious doubt on the reliability and veracity of her claims. He points out that during her direct and cross-examination, BBB testified that accused-appellant left the house of *Kagawad* Mernilo and went home at 8:57 p.m., while BBB followed and went home at 9:00 p.m. Thus, there was only a three-minute gap, “a limited period of time that the accused-appellant was left alone at the house.”⁴⁸ However, BBB changed her narration during re-direct examination, implying that accused-appellant was left alone in the house with AAA between 8:30 p.m. and 9:00 p.m.

The Court is not persuaded.

Time and again, the Court has ruled that “findings of the trial court on the credibility of witnesses and their testimonies are entitled to the highest respect and will not be disturbed on appeal in the absence of any clear showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.”⁴⁹ The trial court’s findings are generally binding upon this Court, especially when affirmed by appellate court.⁵⁰

In this case, the CA concurred with the factual findings and conclusions of the RTC. Thus, such findings are binding upon this Court, in view of the absence of any clear showing that the RTC overlooked, misunderstood, or misapplied any fact or circumstance of weight and substance.

In any case, a review of the records would show that the alleged inconsistencies as to the time when accused-appellant was left alone in the house with AAA is a minor or collateral matter which does not discredit or diminish BBB’s credibility. In fact, the Court has ruled that “the variance in minor details has the net effect of bolstering instead of diminishing the witness’ credibility because they discount the possibility of a rehearsed testimony. Instead, **what remains paramount is the witness’ consistency in relating the principal elements of the crime and the positive and categorical identification of the accused as the perpetrator of the same.**”⁵¹

⁴⁷ Id. at 11.

⁴⁸ CA rollo, p. 39.

⁴⁹ *People v. Sulayao*, 817 Phil. 895, 905 (2017), citing *People v. Jacalne*, 674 Phil. 139, 145 (2011).

⁵⁰ See *People v. Sanchez*, 681 Phil. 631, 635 (2012).

⁵¹ *Dela Cruz v. People*, G.R. No. 245516, 14 June 2021. Emphasis supplied.

Moreover, after the cross-examination of a witness, the Rules of Court allows that he or she may be re-examined to explain or supplement his or her answers given during the cross-examination.⁵² “The principal object of re-direct examination is to prevent injustice to the witness and the party who has called him [or her] by affording an opportunity to the witness to explain the testimony given on cross-examination, and **to explain any apparent contradiction or inconsistency in his [or her] statements**, an opportunity which is ordinarily afforded to him [or her] during cross-examination. The re-direct examination serves the purpose of completing the answer of a witness, or of adding a new matter which has been omitted, or of **correcting a possible misinterpretation of testimony.**”⁵³

BBB positively and categorically identified accused-appellant as the perpetrator of the crime. Her testimony was clear, straightforward, and unwavering as to what transpired on 18 December 2010: accused-appellant and BBB were watching television at their neighbor’s house when accused-appellant decided to go home *at around 8:30 p.m.*, while BBB continued watching. *At 8:57 p.m.*, BBB saw from the other side of the road accused-appellant lying down at their balcony. BBB went home at around *9:00 p.m.* BBB clarified these times during her re-direct examination, and reiterated the same under re-cross examination. When she arrived home, she found AAA crying and saying, “*mama mama, aw aw,*” while pointing to her vagina. BBB then found fresh blood and whitish liquid between AAA’s legs. She then went to accused-appellant, still sleeping soundly on their balcony, unzipped his pants and found a smear of blood and whitish liquid on his penis. There was no one else in the house other than the three of them.

BBB’s testimony was corroborated by the findings of Dr. Baldovino who examined AAA and found fresh lacerations on her hymen, which were “diagnostic of blunt force penetrating trauma.”⁵⁴ Jurisprudence dictates that in the absence of direct evidence, medical findings are “corroborative of a strong circumstantial evidence that the victim was raped.”⁵⁵

Moreover, BBB’s testimony as to AAA’s physical and mental disabilities unable to take care of herself, being a special child, and afflicted with Down Syndrome was also corroborated by the testimonies of Dr. Baldovino,⁵⁶ Municipal Social Welfare Development Officer Dr. Cecilia Flordeliz,⁵⁷ and Municipal Health Officer Dr. Constanca S. Mecija.⁵⁸ Accused-appellant himself admitted that AAA was a special child.⁵⁹

⁵² REVISED RULES ON EVIDENCE, Rule 132, Sec. 7.

⁵³ *People v. De Guzman*, 333 Phil. 50, 67-68 (1996). Emphasis supplied.

⁵⁴ TSN, 13 August 2013, p. 5.

⁵⁵ *People v. Cabornay*, G.R. No. 250649, 24 March 2021.

⁵⁶ TSN, 13 August 2013, p. 4.

⁵⁷ TSN, 18 June 2013, p. 3; TSN, 12 July 2012, pp. 4-5.

⁵⁸ TSN, 08 May 2013, p. 4.

⁵⁹ TSN, 13 June 2016, p. 6.

On the other hand, accused-appellant merely offered denial as his defense without any other supporting evidence. Accused-appellant was likewise “unable to show that it was physically impossible for him to be at the scene of the crime considering that he was just across the house of his live-in partner, especially so when he acknowledged on cross-examination that he went back to their house on December 18, 2010 and AAA was also there prior to his apprehension.”⁶⁰

The defense of denial is “an inherently weak defense and constitutes self-serving negative evidence, which cannot be accorded greater evidentiary weight than the positive declaration by credible witnesses.”⁶¹ “An affirmative testimony is far stronger than a negative testimony especially when it comes from the mouth of a credible witness. Alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law.”⁶²

Thus, BBB’s positive and categorical identification of accused-appellant as the perpetrator of the crime prevails over accused-appellant’s unsubstantiated denial.

In view of all the foregoing, the Court upholds accused-appellant’s conviction and the imposed penalty of *reclusion perpetua*, pursuant to Art. 266-A and Art. 266-B of the Revised Penal Code, as amended.

The Court likewise affirms the modified amounts of the damages awarded by the CA, including the imposition of six percent (6%) interest per *annum* on all the monetary awards from the date of finality of this Resolution until fully paid, in accordance with the prevailing jurisprudence.⁶³

WHEREFORE, the instant appeal is hereby **DISMISSED**. The Decision dated 17 June 2019 of the Court of Appeals in CA-G.R. CR-HC No. 10550 finding accused-appellant XXX **GUILTY** of the crime of Rape under Article 266-A of the Revised Penal Code, as amended, is hereby **AFFIRMED in toto**.

⁶⁰ *Rollo*, p. 20.

⁶¹ *Dela Cruz v. People*, G.R. No. 245516, 14 June 2021.

⁶² *People v. Bongos*, 824 Phil. 1004, 1022 (2018), citing *People v. Manchu*, 593 Phil. 398, 411 (2008).

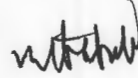
⁶³ See *People v. Jugueta*, 783 Phil. 806, 854 (2016), citing *Nacar v. Gallery Frames*, 716 Phil. 267, 282-283 (2013).

SO ORDERED.” *Marquez, J., on official business.*

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court

by:



MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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APR 26 2023

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